

Appl. No. 10/292,234
Atty. Docket No. AA470C
Amdt. dated October 10, 2003
Reply to Office Action of November 12, 2002
Customer No. 27752

REMARKS

Claim 8 has been canceled without prejudice. Claims 1-3, 5, 7, 9-11, 13, 15-16, 18-19, 21, and 23-30 have been amended. Claim 1 has been amended to require that the flexible film dosing reservoir have a predetermined weak region. Claim 1 has also been amended to require that the reservoir be disposed between the first and second internal surfaces. Further, Claim 1 has been amended to require that the product contained within the reservoir be releasable from the reservoir through the first side to the target surface by an application of pressure to the reservoir. Support for the current Amendments to Claim 1 is found on page 10, lines 1-6, page 17, lines 25-29, and Fig. 2 of the Specification, as originally filed, and Claim 8, as originally presented. Claim 9 has been amended to provide structure to the claimed distribution channel. Support for the Amendment to Claim 9 is found on page 16, lines 8-15 of the Specification, as originally filed. Claim 13 has been amended to require that a second substantially fluid impervious barrier layer be disposed between the first barrier layer and the second internal surface. Support for the current Amendment to Claim 13 is found on page 11, lines 29-30, and Fig. 2 of the Specification, as originally filed. Claim 21 has been amended to withdraw the claimed recitation of a use and to provide a Markush selection of products. Support for the current Amendment to Claim 21 is found in Applicants' cited Examples 1-16 presented from pages 46-66 of the Specification, as originally filed. Claim 24 has been amended to require that the first fluid-containing flexible film dosing reservoir be placed in a predetermined location between the first and second webs. Support for the current Amendment to Claim 24 is found in Claim 1, as originally filed. Claim 25 has been amended to require a rupturable laminate film reservoir containing a product be disposed between the first internal surfaces and the product contained therein be releasable from the reservoir via an application of pressure. Support for the current Amendment to Claim 25 is found on page 17, line 18, of the Specification, as originally filed. Claim 29 has been amended to require the flexible film dosing reservoir to comprise at least one frangible seal. Support for the current Amendment to Claim 29 is found on page 10, lines 3-4, of the Specification, as originally filed. Claim 30 has been amended to require that the reservoir have at least one weak region having a comparatively low burst force. Support for the current Amendment to Claim 30 can be found on page 5, lines 4-7, of the Specification, as originally filed. Further, Claims 1-3, 5, 7, 9-11, 13, 15-16, 18-19, 21, and 23-30 have been amended to provide proper antecedent basis for Applicants' claims pursuant to 35 U.S.C. §112, ¶2. No new matter has been added.

Applicants' Specification has been amended on page 1 to provide corresponding priority data for the instant Application. Further, Applicants' Specification has been amended on pages 44 and 46, as originally filed, to provide reference to a co-pending granted patent and a co-pending application,

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as requested by the Examiner. No new matter has been added. Claims 1-7 and 9-30 remain in the instant Application and are presented for the Examiner's review in light of the previous Amendments and the following remarks.

Priority

Applicants have amended the instant Application to provide a specific reference to the priority document pursuant to 37 C.F.R. §1.78(a)(2) and 37 C.F.R. §1.78(a)(5). Applicants respectfully request withdrawal of the Examiner's objection.

Specification

The Examiner has objected to Applicants' disclosure for failure to describe structure constituting a first side and second side. Applicants respectfully direct the Examiner's attention to settled Federal Circuit case law. The court, in *Martin v. Meyer*, 823 F.2d 500, 3 U.S.P.Q.2d 1333 (Fed.Cir. 1987) stated, "It is not required that the application describe the claim limitations in greater detail than the invention warrants." The description must be sufficiently clear that persons of skill in the art will recognize that the applicant made the invention having those limitations. *Id.* Further, the court stated in *Fujikawa v. Wattanasin*, 93 F.2d 1559, 39 U.S.P.Q.2d 1895 (Fed.Cir. 1996), that an *ipsis verbis* disclosure is not necessary to satisfy the written description requirement. Instead, the disclosure need only reasonably convey to persons skilled in the art that the inventor had possession of the subject matter in question. *Id.* Additionally, M.P.E.P. §2173.05(f) states that, "A claim term which has no antecedent basis in the disclosure is not necessarily indefinite." Further, M.P.E.P. §2.163(I)(B) states that, "There is no *in haec verba* requirement in regard to support of claim limitations. Additionally, the original claims constitute their own description." See M.P.E.P. §2163. Therefore, it is Applicants' position, in light of well settled Federal Circuit case law and established PTO procedures, that Applicants' written description provides proper antecedent basis for all Applicants' claimed subject matter. Further, Applicants respectfully direct the Examiner to page 8, line 2 - page 9, line 6, of the Specification, as originally filed. In the section entitled "Applicator Construction and Operation," Applicants respectfully suggest that the required disclosure is detailed therein. In particular, Applicants respectfully direct the Examiner to page 8, lines 16-21. Additionally, Applicants also respectfully direct the Examiner to Applicants' numerous figures (i.e., Fig. 2) to provide such support. Applicants respectfully request withdrawal of the Examiner's objection to the Specification.

The Examiner has required correction to the blanks presented on line 18 of page 44 and line 26 of page 46. By Amendment, Applicants have provided the requested information.

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The Examiner has objected to Applicants' claims for informalities. By Amendment herein, Applicants have provided such corrections.

The Examiner has objected to Applicants' Specification for failing to provide antecedent basis for the terms "teeth cleaning," "car vinyl protectant," and "a first substrate." Applicants respectfully direct the Examiner to page 58, lines 25-28, for antecedent support for the term "teeth cleaning." Applicants respectfully direct the Examiner to page 56, lines 7-11, for antecedent support for the term "car vinyl protectant." Additionally, Applicants respectfully direct the Examiner to page 15, line 30 - page 16, line 1, and page 19, lines 5-8, for antecedent support for the term "a first substrate."

Applicants respectfully request withdrawal of the Examiner's objections to the Specification.

Rejections Under 35 U.S.C. §101

Claim 21 has been rejected under 35 U.S.C. §101 for the claimed recitation of a use without setting forth any steps. By Amendment herein, Applicants have withdrawn the claimed recitation of use and have instead provided a Markush recitation for embodiments of the claimed product. Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §101 rejection.

Rejections Under 35 U.S.C. §112

Claims 29 and 30 have been rejected under 35 U.S.C. §112, ¶1 for not providing enabling disclosure for the terms "sequentially" and "via multiple applications of pressure to said reservoir." Applicants respectfully direct the Examiner's attention to the Specification on page 10, line 28 - page 11, line 2, to provide the requested enabling support. Applicants respectfully request withdrawal of the Examiner's rejection under 35 U.S.C. §112, ¶1.

The Examiner has rejected Applicants' Claims 13, 14, 21, 24, and 28 under 35 U.S.C. §102, ¶2. By Amendment, Applicants have amended Claims 13, 21, 24, and 28 to provide antecedent support, as required by the Examiner. However, Applicants are at a loss to find any 35 U.S.C. §112, ¶2 rejectable subject matter in Claim 14. Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §102, ¶2 rejections.

Rejection Under 35 U.S.C. §102

Claims 1-4, 13, 21, and 23 were rejected under 35 U.S.C. §102(b) over Schneider, U.S. Patent No. 2,790,982. Applicants respectfully traverse this rejection for the following reasons:

1. Applicants' claimed invention, as now presented in amended Claim 1, requires the flexible film dosing reservoir having a predetermined weak region be disposed between the first and second internal surfaces.

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2. Further, Applicants' invention, as now presented in Claim 1 by Amendment, requires the product contained within Applicants' flexible film dosing reservoir to be releasable from the reservoir through the first side to a target surface by an application of pressure to the reservoir.

3. The *Schneider* reference is silent with respect to the use of a flexible film dosing reservoir having a predetermined weak region.

4. *Schneider* discloses the use of a gelatin capsule. Applicants are at a loss to understand how a gelatin capsule, as described by *Schneider*, can be considered to have a predetermined weak region.

Due to these considerations, *Schneider* fails to teach each and every element of Applicants' claimed invention. Therefore, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §102(b) rejection with respect to Claim 1. Further, because Claims 2-4, 13, 21, and 23 all depend directly or indirectly from Applicants' independent Claim 1, they contain all of its respective limitations. Therefore, Applicants respectfully request withdrawal of the Examiner's rejection to Claims 2-4, 13, 21, and 23 under 35 U.S.C. §102(b).

Claims 1, 3-12, 15, 16, 18-21, 23, and 25-27 were rejected under 35 U.S.C. §102(b) over *Spees*, U.S. Patent No. 3,306,292. Applicants respectfully traverse this rejection for the following reasons:

1. As mentioned previously, Applicants' Claim 1 now requires a reservoir having a predetermined weak region to be disposed between the first internal surface and second internal surface.

2. Applicants' amended Claim 25 requires the rupturable reservoir to be a laminate film structure.

3. *Spees* discloses a bandage contained within a package 12. See Col. 3, lines 4-5.

4. The bandage is provided with a covering sheet (release layer) 21, 22' placed over a pad 20. See Col. 3, lines 5-6. The covering sheet is not a part of the intended bandage structure. See Col. 2, lines 42-44.

5. Mounted centrally of the backing strip 18 is an adsorbent pad of gauze or the like designated 20. See Col. 2, lines 33-35.

6. The gauze is normally applied directly to the wound or portion of the skin which the bandage is to cover. See Col. 2, lines 35-37.

7. A pouch or capsule 22 is provided within the pad 20. See Col. 2, lines 50-51.

8. Thus, as can be seen by the disclosure in *Spees*, the pouch or capsule 22 is disposed within a layer and not disposed between two internal surfaces of two sides, as required by Applicants' Claims 1 and 25.

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Due to these considerations, *Spees* fails to teach each and every element of Applicants' invention as claimed in amended Claims 1 and 25. Therefore, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §102(b) rejection with respect to Claims 1 and 25. Further, because Claims 3-12, 15-16, 18-21, 23, and 26-27 all depend directly or indirectly from Applicants' independent Claims 1 or 25, they contain comprise all of their respective limitations. Therefore, for the reasons cited with respect to Claims 1 and 25, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §102(b) rejection to Claims 3-12, 15-16, 18-21, 23, and 26-27.

Claims 1-4, 8, 17, 21, and 25-30 were rejected under 35 U.S.C. §102(b) over *Gerber, et al.*, U.S. Patent No. 2,209,914. Applicants respectfully traverse the rejection for the following reasons:

1. *Gerber* requires the use of a hollow capsule or container preferably made of gelatin. See Col. 2, lines 24-27.

2. For the reasons cited with regard to the *Schneider* references cited *supra*, Applicants are at a loss to understand how a gelatin capsule can be considered to be any of a flexible film dosing reservoir having a predetermined weak region, a rupturable laminate film reservoir, a flexible film dosing reservoir comprising at least one frangible seal, or a reservoir having at least one weak region having a comparatively low burst force, as required by Applicants' amended independent Claims 1, 25, 29, or 30.

Due to these considerations, *Gerber* fails to teach each and every element of Applicants' claimed invention. Therefore, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §102(b) rejection with respect to independent Claims 1, 25, 29, and 30, and all the claims dependent thereon.

Claim 24 has been rejected under 35 U.S.C. §102(b) over *Cohen*, U.S. Patent No. 5,957,605. Applicants respectfully traverse this rejection for the following reasons:

1. Applicants require placement of a first fluid-containing flexible film reservoir in a predetermined location between the first and second webs.

2. *Cohen* discloses an applicator comprising an applicator pad 11 having a back surface that is bonded to an impermeable backing element 12 that functions to prevent migration of the product from the applicator pad to the user's hand. See Col. 6, lines 60-65.

3. Next, the packet 13 is located behind the impermeable backing element 12. See Col. 7, lines 3-5.

4. Thus, *Cohen* does not provide Applicants' steps of providing a first web, providing a second web, and placing a first fluid-containing flexible film dosing reservoir between the first and second webs.

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Due to these considerations, *Cohen* fails to teach each and every element of Applicants' claimed invention as presented in amended Claim 24. Therefore, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §102(b) rejection with respect to the Claim 24.

Rejections Under 35 U.S.C. §103

Claims 1-5, 8, 13, 16, 21, and 22 were rejected under 35 U.S.C. §103(a) over *Sansonetti*, U.S. Patent No. 4,087,675 in view of *Cahill*, U.S. Patent No. 3,116,732. Applicants respectfully traverse this rejection for the following reasons:

1. As indicated *supra*, Applicants' claimed invention requires a product contained within a flexible film dosing reservoir to be releasable from the reservoir through the first side to a target surface by an application of pressure to the reservoir.

2. *Sansonetti* discloses an inner mitten 12 forming an open-ended hand receiving chamber 16 constructed of a liquid impervious material, such as plastic or the like. *See* Col. 2, lines 22-26.

3. A reservoir is provided in the inner mitten for the retention of hand cream. *See* Col. 2, lines 27-29. Thus, when heat is applied to the inner mitten 12, the membrane 22 of a product hand cream 20 melts, thereby releasing a premeasured quantity of the hand cream onto the hand inserted therein. *See* Col. 2, lines 31-33.

4. Therefore, *Sansonetti* does not dispose a product contained within a reservoir to an external target surface.

5. Further, the *Cahill* reference discloses an inner glove layer 2 having treatment reservoirs 3 located internal to the outer layer. *See* Col. 1, lines 35-38. Thus, material is released to a hand inserted into the glove. *See* Col. 1, lines 11-16.

6. Applicants are at a loss to understand how the hand care glove disclosed by both *Sansonetti* and *Cahill* having, *inter alia*, a glove with a product disposed therein wherein the product is dispensed onto an object inserted therein teaches or discloses Applicants' claimed applicator having a flexible film dosing reservoir containing a product that is releasable from the reservoir through a surface to a target surface.

Because of these considerations, the *Sansonetti* and *Cahill* references do not suggest what Applicants claim as their invention. The *Sansonetti* and *Cahill* references fail to disclose, teach, suggest, or render obvious, either singly or in combination, every recited feature of Applicants' Claim 12. For this reasons, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to Claim 1. Further, because Claims 2-5, 8, 13, 16, and 21-22 all depend directly or indirectly from Applicants' amended Claim 1, they contain all of its limitations. Therefore,

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Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to Claims 2-5, 8, 13, 16, and 21-22.

Conclusion

Based on the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512, and no fee is believed due. However, if any additional charges are due, the Examiner is hereby authorized to deduct such charge from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,
GRUENBACHER, ET AL.

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